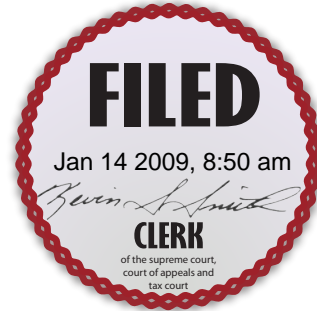


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

KATHRYN SKAGGS,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-0806-CR-489

APPEAL FROM THE MARION SUPERIOR COURT

The Honorable Stanley Kroh, Judge Pro Tem

Cause No. 49G03-0801-FC-15074

January 14, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Judge

Case Summary and Issue

Following a bench trial, Kathryn Skaggs appeals her conviction of robbery, a Class C felony. On appeal, Skaggs raises one issue, which we restate as whether sufficient evidence supports her robbery conviction. Concluding sufficient evidence supports Skaggs's conviction, we affirm.

Facts and Procedural History

Around 3:00 a.m. on January 16, 2008, Samba Amadou was working at an Indianapolis gas station when Skaggs attempted to enter the station to buy cigarettes. At that hour, and for security purposes, Amadou typically requires customers to purchase items from a service window only, but he eventually let Skaggs in after she refused to do so. Once inside, Skaggs took money from the register while Amadou's back was turned. Amadou tried to grab Skaggs's hand, but relented after seeing Skaggs moving her hand around in her jacket pocket and after Skaggs twice told him to "give me that fuck [sic] money." Transcript at 17. With money in hand, Skaggs fled in a vehicle; Amadou called 911, and police officers apprehended her shortly thereafter.

On January 17, 2008, the State charged Skaggs with robbery, a Class C felony. Less than a month later, the State filed a notice that it would seek sentence enhancement based on Skaggs's alleged status as an habitual offender. On April 23, 2008, the trial court presided over a bench trial, at which it heard testimony from Amadou and several investigating officers. Based on this evidence, the trial court found Skaggs guilty. Skaggs now appeals.

Discussion and Decision

Skaggs challenges the sufficiency of the evidence supporting her robbery conviction. In addressing such challenges, we neither reweigh evidence nor judge witness credibility. McHenry v. State, 820 N.E.2d 124, 126 (Ind. 2005). Instead, we “must affirm ‘if the probative evidence and reasonable inferences drawn from the evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt.’” Id. (quoting Alkhalidi v. State, 753 N.E.2d 625, 627 (Ind. 2001)).

To convict Skaggs of robbery as a Class C felony, the State had to prove beyond a reasonable doubt that she knowingly or intentionally took property from Amadou’s presence either by threatening the use of force on any person or by putting any person in fear. See Ind. Code § 35-42-5-1; Rickert v. State, 876 N.E.2d 1139, 1141 (Ind. Ct. App. 2007). Skaggs argues there was insufficient evidence to support findings that she either threatened the use of force on Amadou or put him in fear. Putting to the side whether Skaggs threatened the use of force,¹ we note Amadou testified that he tried to prevent Skaggs from taking the money by grabbing her hand, but relented after seeing Skaggs moving her hand around in her jacket pocket and after Skaggs twice told him to “give me that fuck [sic] money.” Tr. at 17. Amadou further testified that he relented because Skaggs’s conduct made him “scared.” Id. 18. When asked why Skaggs’s conduct made him scared, Amadou stated, “If she got a gun or something she can use it . . . on me.” Id. Amadou’s testimony thus supports a reasonable inference that Skaggs took the money by placing Amadou in fear. Cf. Clemmons v. State, 538 N.E.2d 1389, 1389-90 (Ind. 1989)

¹ As the plain language of the robbery statute indicates, the State is not required to prove the defendant threatened the use of force and put the victim in fear. See Wash v. State, 408 N.E.2d 634, 640 (Ind. Ct. App. 1980).

(concluding sufficient evidence supported defendant's robbery conviction where defendant said to victim, "Give me the money bitch," and, as victim backed away, defendant grabbed money from victim's hand and took money from the cash register); Cross v. State, 235 Ind. 611, 613, 137 N.E.2d 32, 33 (1956) (affirming defendant's robbery conviction based on evidence that the defendant entered a gas station and took a cash register while keeping one hand in his pocket and giving the victim a "look" that made the victim too scared to intervene). Thus, it follows that sufficient evidence supports Skaggs's robbery conviction.

Conclusion

The State presented sufficient evidence to convict Skaggs of Class C felony robbery.

Affirmed.

CRONE, J., and BROWN, J., concur.